

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0164P**

**Use Tax**

**Calendar Years 1996 and 1997**

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**ISSUE(S)**

**I. Tax Administration - Interest**

**Authority:** IC 6-8.1-10-1

Taxpayer protests the imposition of interest.

**II. Tax Administration - Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the imposition of a negligence penalty.

**STATEMENT OF FACTS**

Taxpayer is an Indiana corporation operating a motel. Upon audit, it was discovered that the taxpayer failed to remit use tax and had no accrual system in place. Taxpayer files sales tax returns.

**I. Tax Administration - Interest**

**DISCUSSION**

Taxpayer protests the interest assessed.

Interest, under IC 6.8-1-10-1 may not be waived.

**FINDING**

The taxpayer's protest is denied.

**II. Tax Administration-Penalty**

**DISCUSSION**

The taxpayer protests the imposition of a negligence penalty but does not provide support.

A review of the audit file indicates the taxpayer made no effort to self-assess use tax on clearly taxable items. A negligence penalty may be imposed under IC 6-8.1-10-2.1 and 45 IAC 15-11-2 (c) if the taxpayer does not exercise ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed.

The taxpayer failed to self-assess use tax on clearly taxable items and no use tax accrual system is in place. The taxpayer did not show reasonable cause for failing to self-assess use tax.

**FINDING**

The taxpayer's protest is denied.

**CONCLUSION**

Taxpayer's protest is denied for Issues I and II.